REMARKS

The Examiner maintains the prior art anticipation rejection based on U.S. Patent 4,960,121 to Nelson et al. (Nelson). In maintaining the rejection, the Examiner contends that "the Nelson reference lacks a rigid insert and is of a non-elastomeric material (see Col. 2, lines 20-40)." This cited portion of the Nelson patent, however, does not describe a mask body that lacks a rigid insert. Item 12 is not the mask body. The mask body is the assembly that includes the hard shell 12 and the face seal 14. Nelson indicates that "when the hard shell and elastomeric face seal are assembled to each other they will be referred to as a hard shell and face seal assembly." Although Nelson does not use the word "mask body" to describe this combination of parts, it is clear that this assembly meets the definition of a mask body as defined in the present application. Please note that the hard shell 12, by itself, is not configured to fit over a person's nose and mouth. It needs the additional face seal to achieve this part of applicant's "mask body" definition.

In maintaining the rejection, the Examiner also contends that Nelson's Figures 6 and 7 show a mask body that inherently "can move toward each other about an axis when the mask is held stationary and a force is exerted on the nose and chin portions." Although the Examiner believes that Figures 6 and 7 show an inherent mask body deflection, applicants find no support for such a contention in those Figures. Applicants submit that Figures 6 and 7 merely show the respirator 10 being donned by the user:

Fig. 6.

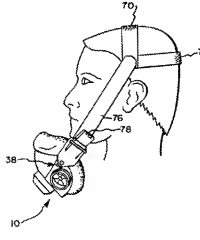
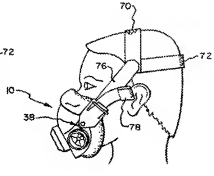


Fig. 7.



There is nothing in these Figures which would lead a person of ordinary skill to conclude that the first and second cheek portions can move towards each other about an axis that extends from the nose portion to the chin portion. To the contrary, Nelson describes a hard shell 12 that would preclude a deflection of the cheek portions towards each other.

The Examiner also disagrees with applicants' argument that Nelson does not describe a mask body that is capable of exhibiting a deflection when 5 Newtons of force is applied. The Examiner contends that "discovering an optimum value of a result effective variable involves only routine skill in the art" and therefore could easily be derived from the prior art. The problem with the Examiner's position, however, is that applicants are not merely discovering an optimum value of a result effective variable. Applicants are claiming a respiratory mask that has a different structure and that has distinctly different mask body properties. Nelson, by virtue of its structure, cannot provide the deflections of the cheek portions as outlined in applicants' claims much less provide some optimum value of a result effective variable. Nelson's use of a hard shell would not allow for such an ability. There is nothing in the record to indicate otherwise.

Because the primary reference to Nelson fails to teach or suggest the basic features of the present invention, and further because the secondary reference to U.S. Patent 6,062,221 to Brostrom et al. (Brostrom) adds little to nothing to what is lacking in Nelson, these documents would not have made applicants' invention obvious to a person of ordinary skill. Please note that Brostrom also describes a mask body that has a rigid insert.

In view of the above, applicants believe that the present application is in condition to be allowed. Please further examine the application in light of the remarks presented above.

Respectfully submitted,

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